HONOURABLE SRI JUSTICE J.CHELAMESWAR
And
HONOURABLE SRI JUSTICE D.APPARAO

18-09-2006

WRIT PETITION No.17294 of 2006

Between:

M/s. Ankit Packaging Limited, Secunderabad.
.. Petitioner

And

1. The Additional Commissioner (CT) (Legal), Hyderabad and others.

..Respondents

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ORDER: (Per JC. J)**:**

The petitioner, a limited company, is a registered dealer on the rolls of the 3rd respondent-The Commercial Tax Officer, Bowenpally Circle, Secunderabad, engaged in the business of manufacture of Flexible packing material. For the assessment year 1998-99, the petitioner filed the returns under the A.P. General Sales Tax Act ('the Act' for short') and claimed exemption for payment of tax in view of the G.O.Ms.No.117, dated 17-03-1993.

2. Further it is the case of the petitioner that the activity of the petitioner is taxable as 'works contracts' under the Act and he opted for the alternative mode of assessment prescribed under Section 5-G of the Act. In the order dated 12-09-2001, issued by the 3rd

respondent, it appears that he accepted the claims of the petitioner and made an assessment and the liability of the petitioner. The said assessment order was revised by the 2nd respondent-The Deputy Commissioner (CT), Begumpet Division, Begumpet, Hyderabad, exercising the powers vested on him under Section 20 of the Act and he came to conclusion that the petitioner is not entitled for the benefit of the above mentioned G.O. and that the petitioner is liable to pay the tax.

3. Aggrieved by the same, the petitioner preferred appeal to the A.P. Sales Tax Appellate Tribunal. During the pendency of the said appeal, the petitioner filed stay petition before the 1st respondent seeking stay of recovery of the tax as determined by the 2nd respondent in his revision. The said application was rejected by the 1st respondent by his order dated 12-05-2006. Hence, the present writ petition with a prayer as follows:-

> "To issue an appropriate writ or direction more particularly one in the nature of Mandamus declaring the impugned order dated 12-05-2006 passed by the 1st respondent in proceeding CCT's Ref.No.LIII (2)/297/2006 for the assessment year 1998-99 as illegal, unjustified and contrary to the provisions of the law"

4. Heard the learned Government Pleader for Commercial Taxes.

5. In the circumstances, we are of opinion that the matter can be disposed of at this stage directing the respondents not to take any coercive steps for the recovery of the tax from the petitioner for the assessment year 1998-99 as determined by the 2nd respondent in his revisionary order subject to the condition that the petitioner deposits 50% of the disputed tax within a period of six weeks from today. The amount of tax, if any paid already, with reference to the above assessment year by the petitioner shall be given credit to while computing the above mentioned amount of 50% tax.

6. With the aforementioned direction, the writ petition is disposed of. No costs.

J.CHELAMESWAR, J

D.APPARAO, J

September 18, 2006.

Kvr